

**MEMORANDUM OF UNDERSTANDING**  
**between**

**UNITED STATES OF AMERICA**  
**Through the U.S. DEPARTMENT OF AGRICULTURE, FOREST SERVICE,**  
**ALASKA REGION**  
**and the**  
**STATE OF ALASKA,**  
**Through the DEPARTMENT OF NATURAL RESOURCES and**  
**the DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES**

This **MEMORANDUM OF UNDERSTANDING** ("MOU"), is entered into by and between the United States of America ("United States"), acting through the USDA Forest Service, Alaska Region ("Forest Service") and the State of Alaska ("State"), acting through the Departments of Natural Resources ("DNR") and Transportation and Public Facilities ("DOT&PF") (collectively, the "parties").

**A. PURPOSE**

The purpose of this MOU is to establish a framework and process for granting the reciprocal rights-of-way and easements described in Section 4407 of Public Law 109-59 ("Section 4407"), which provides as follows: "Notwithstanding any other provision of law, the reciprocal rights-of-way and easements identified on the map numbered 92337 and dated June 15, 2005, are hereby enacted into law."

**B. STATEMENT OF MUTUAL INTEREST AND BENEFITS**

The State and the United States each have a need for access and rights across their intermingled ownerships for such uses as transportation and utility corridors, log transfer facilities and marine access facilities in and around the Tongass National Forest. The parties have identified their respective access needs on the map entitled Transfer Facilities, Marine Access Points and Proposed Transportation Corridors in Southeast Alaska, numbered 92337, and dated June 15, 2005 ("Map"), which is Attachment A and is hereby incorporated and made part of this MOU. The parties intend to use their best efforts to grant the identified rights-of-way and easements in the manner prescribed in this MOU, thereby providing for development and maintenance of access and the adjunct rights of construction, operation and maintenance of facilities and improvements, which will provide substantial benefits to the public. The parties recognize that such rights will be granted consistent with their respective obligations to protect scenic, archaeological, recreation, and fish and wildlife values, resources and habitats on National Forest System lands and State of Alaska lands.

**C. DEFINITIONS**

Solely for purposes of this MOU, the following definitions shall apply:

1. Right-of-way. Land authorized to be used or occupied for the construction, operation, maintenance and termination of a project, such as roads, marine structures, and utilities, passing over, upon, under or through such land. A right-of-way shall be conveyed by an easement or other instrument agreed upon by the parties.
2. Easement. An interest in land owned by another party that entitles the holder to a specific limited use or enjoyment, including the right to construct, reconstruct, operate, and maintain authorized improvements.
3. Log Transfer Facility (“LTF”). A facility that is constructed in whole or in part in marine or inland waters and is utilized for the purpose of transferring commercially harvested logs to or from a vessel or log raft, including the formation of a log raft. Also included are appurtenant constructed facilities such as equipment loading ramps, docks, floats, buoys, booms, log rafts, pilings, and anchors. LTFs that are subject to this MOU are identified on the Map.
4. Marine Access Point. (“MAP”). A facility that is constructed or may be constructed in marine or inland waters and is utilized for the purpose of providing public access to adjacent National Forest system lands and facilities. Such facilities may include docks, boat ramps, floats, buoys, anchors, breakwaters, boat haulouts, and similar improvements and facilities. MAPs that are subject to this MOU are identified on the Map.
5. Highway. Any public way for vehicular travel and other transportation related uses, including the entire area within the right-of-way and related facilities.
6. Utility. The term utility or utilities includes but is not limited to poles, lines, trenches, bridges, utildors, tunnels, pipelines, and any other system for furnishing, producing, generating, transmitting, or distributing power, electricity, communications, telecommunications, water, steam, heat, light, air, sewage, drainage not connected with highway drainage, or irrigation.

**D. THE UNITED STATES SHALL:**

1. The United States shall grant to the State rights-of-way substantially similar in form to Attachment B. The rights-of-way shall include at least those rights necessary for DOT&PF to conduct engineering and all other activities necessary or incident to highway and utility planning, design and environmental review processes. The term of the rights-of-way shall be fifty (50) years and non-renewable. The location of the rights-of-way will be as set forth in the Map. The Map is intended, in part, to identify the servient estate. Attachment B shall identify the section, township, range and meridian designation of the servient estate, and will include a starting point, ending point, and approximate width and alignment of each right-of-way corridor. The location of the right-of-way will be further detailed by a survey diagram or diagrams at times and places mutually agreed by the parties and such survey diagram will be prepared during the course of activities described above, but prior to construction (see D.2). Rights-of-way issued pursuant to this section shall terminate upon issuance of an easement pursuant to paragraph D.2.

2. If, within the term of the right-of-way granted pursuant to paragraph D.1, and prior to any construction, the State submits a survey diagram that has received written acceptance pursuant to paragraph F.6, the Forest Service shall grant a renewable fifty-five (55) year easement substantially similar in form to Attachment C. The easement shall be for the construction, reconstruction, operation and maintenance of roads, utilities, and other linear transportation and utility purposes. The easement shall confer upon the State non-exclusive rights, at no charge. The easement shall reserve in the United States, among other things, the right to the standing timber within the right-of-way, the subsurface estate, the right of public access and use other than for highway and utility purposes, the right to regulate acts or omissions, and the right to enforce regulations related to the occupancy and use of National Forest System lands. Exercise of any of the rights reserved to the United States may not unreasonably interfere with the highway or utility purposes of the easement, and is subject to all applicable rules and requirements associated with operating and maintaining a public highway and utilities. Subject to existing Forest Service regulations and Forest Service approval of pit location, either a free use permit shall be issued for access to and use of mineral materials within construction limits if used for construction of a highway or for highway repair purposes, or the easement will be drafted, amended or modified to include such right.

3. Granting of an easement under paragraph D.2 shall not be unreasonably withheld. If an easement is not granted pursuant to paragraph D.2, any rights-of-way previously granted shall terminate without the necessity for any decision or action by an authorized representative of the United States or the State. Prior to termination, the parties may mutually agree to an extension of any right-of-way previously granted under paragraph one of this section.

4. The easements in paragraph D.2 shall be sufficient to satisfy the requirements of 23 CFR 1.23 for the construction, operation, and maintenance of roads, utilities, and other linear transportation and utility purposes for each route identified on the Map.

5. The grant of rights-of-way in Attachment B shall be in accordance with the schedule of priorities prepared by the State, which appears as Attachment D and is hereby incorporated into this MOU.

#### **E. THE STATE OF ALASKA SHALL:**

##### **1. Log Transfer Facilities.**

a. Subject to the requirements of paragraph E.3 below, DNR shall grant to the United States a tideland easement with a term of fifty-five (55) years for each LTF site as represented on a State-approved easement diagram. The easement granted by DNR shall be substantially similar in form to Attachment E, and is subject to the reservations in paragraph E.1.b. Such easement shall confer upon the United States the non-exclusive right to utilize the site, at no charge, and shall be renewable. The easement shall generally encumber approximately ten (10) acres for each LTF site. The grant of easements shall be in accordance with the schedule of priorities prepared by the United States, which appears as Attachment F and is hereby incorporated into this MOU. If, for any reason, DNR rejects a particular site for an LTF easement, the Forest Service shall have the opportunity to select an alternative site in the area

that will serve its needs. All easements shall be applied for within fifty years of the effective date of this MOU.

b. If DNR determines that, due to adjacent uses or other considerations, it is necessary that an Alaska Tideland Survey for the easement area and constructed improvements thereon be prepared, the Forest Service shall undertake such survey, at its expense. The authority to permit third-party use within the area encumbered by the easement is expressly reserved by the State, except that such use shall not unreasonably interfere with the rights granted to the United States including actual log transfer operations and the ability of the Forest Service to restrict third-party use for purposes of public safety. The easement shall reserve in the State, among other things, the right to the standing timber, the subsurface estate, the right of public access and use, the right to regulate acts or omissions, and the right to enforce regulations related to the occupancy and use of State lands. Except as provided in paragraph E.1.c below, third party use does not include Forest Service contractors, permittees and assigns.

c. The State shall not require a permit or other written authorization for users that access National Forest System lands or other public lands through LTFs if the use is noncommercial and does not interfere with public access or another public use. The State further agrees, in order to effectuate the purposes of this MOU, that it shall not require a permit or other written authorization for users that access National Forest System lands for commercial use through LTFs, except that the State may require a third party to obtain a permit or other written authorization for access through LTFs to a lodge, hotel, industrial facility, or other similar improvement located on National Forest System or other public lands.

## 2. Marine Access Points.

a. The State acknowledges and agrees that pursuant to the regulations at 11 AAC 96.020, the United States, as an upland landowner, without a permit or other written authorization for itself and its assigns and permittees, may construct, operate, and maintain, in lakes, rivers or marine waters within the Tongass National Forest, public docks, boat ramps, mooring buoys, floating breakwaters, and other facilities that are designed and used for access to and from water and provide public access to adjacent National Forest System lands and facilities if the use of such facilities is noncommercial and does not interfere with public access or another public use. The State further agrees, in order to effectuate the purposes of this MOU, that it shall not require a permit or other written authorization for users that access National Forest System lands for commercial use through such facilities constructed at those MAP locations identified on the Map, except that the State may require a third party to obtain a permit or other written authorization for access through constructed facilities at a MAP location to a lodge, hotel, industrial facility, or other similar improvement located on National Forest System or other public lands.

b. In the event that DNR subsequently changes its regulations at 11 AAC 96.020 such that the facilities referenced above are required to come under a State authorization for noncommercial use or be removed, or that new facilities could not be constructed without such authorization, the United States may nevertheless continue the same uses without the need for making formal application to DNR to continue such uses. The parties must nevertheless consult,

and DNR shall issue such authorization as necessary to memorialize the use of MAP facilities for noncommercial use, at no charge to the Forest Service. The authorization must be in a form acceptable to both parties.

3. State Process for Grant of Easements. DNR will follow the relevant requirements of AS 38.05 in the granting of an easement under this section, including preparing a preliminary and final best interest finding and providing public notice as required by AS 38.05.850.

**F. THE STATE AND UNITED STATES MUTUALLY AGREE AND UNDERSTAND:**

1. Mutual Use. The parties intend that the reciprocal interests granted herein shall be available for mutual use, so long as such uses do not unreasonably interfere with the rights granted, and the terms and conditions of the easements described herein. The right of reasonable mutual use includes the right to perform surveys, collect data, and perform geotechnical drilling, and other engineering investigation measures.

2. Public Use. Both parties shall allow reasonable public use of the land interests identified herein so long as such use does not unreasonably interfere, limit, or obstruct the rights identified herein.

3. Operation, Maintenance and Use. The party constructing a particular improvement shall take responsibility for the proper operation, maintenance, and regulation of uses of such improvement.

4. Existing Rights. All grants of interests are subject to valid existing rights.

5. Change in Ownership. When a transfer of ownership in any of the land interests subject to this MOU occurs, the parties shall update all records for the affected features and determine any obligations resulting from such transfer.

6. Plan Submission and Approval. When either the Forest Service or the State is considering the construction or reconstruction of an improvement within any lands subject to this MOU, it will give the other party written notice, which shall be accompanied by plans, drawings and specifications, and a plat showing the approximate location of the proposed improvements. Prior to beginning construction, written acceptance must be received from the other party of the plans, drawings and specifications, but such written acceptance shall not be unreasonably withheld. Such written acceptance shall not require any special form, and shall not require a special use authorization or DNR permit. Both parties shall endeavor to complete reviews within 60 days.

7. Construction Monitoring. Each party shall keep the other informed of construction progress. Periodic inspections may be made by either party as deemed necessary during construction, and objections or issues relating to construction or construction related activities must be raised in writing.

8. Dispute Resolution. The parties shall attempt to resolve any disagreement concerning implementation of this MOU expeditiously and informally at the field level and, if the parties agree, such resolution may involve the use of a mutually acceptable neutral to assist in resolving the dispute. If the parties fail to resolve such dispute informally at the field level, the dispute may continue to be referred to the next higher organization level of each party for resolution. This means, first, the assigned field staff from all parties, second, the Forest Supervisor and the Southeast Regional Managers for DNR and DOT&PF, and finally the Regional Forester and the Commissioners of DNR and DOT&PF.

9. Freedom of Information Act (FOIA). Any information furnished to the Forest Service under this MOU is subject to the Freedom of Information Act (5 U.S.C. 522).

10. Participation in Similar Activities. This MOU in no way restricts the Forest Service or the State from participating in similar activities with other public or private agencies, organizations, and individuals.

11. Responsibilities of Parties. The Forest Service and the State and their respective agencies and offices shall handle their own activities and utilize their own resources, including the expenditure of their own funds, in pursuing these objectives. Each party will carry out its separate activities in a coordinated and mutually beneficial manner.

12. Principal Contacts. The principal contacts for this MOU are:

USDA Forest Service

Assistant Director, Lands

State of Alaska, Department of Transportation

Southeast Regional Director

State of Alaska, Department of Natural Resources    Southeast Regional Manager

13. Fund Obligor Document. This MOU is neither a fiscal nor a funds obligation document. Any endeavor or transfer of anything of value involving reimbursement or contribution of funds between the parties to this MOU shall be handled in accordance with applicable laws, regulations, and procedures including those for government procurement and printing. Such endeavors shall be outlined in separate agreements that shall be made in writing by representatives of the parties and shall be independently authorized by appropriate statutory authority. This MOU does not provide such authority. Specifically this MOU does not establish authority for noncompetitive award to the State of any contract or other agreement. Any contract or agreement for training or other services must fully comply with all applicable requirements for competition.

14. Modification. Modifications within the scope of this MOU shall be made by mutual consent of the parties, by the issuance of a written modification, signed and dated by all parties, prior to any changes being performed.

15. Termination. Any of the parties, in writing, may terminate this MOU in whole or in part, at any time before the date of expiration.

16. Authorized Representatives. By signature below, the State and the Forest Service certify that the individuals listed in this document as the representatives of the State and the Forest Service are authorized to act in matters related to this MOU.

17. Commencement/Expiration. This MOU is executed as of the date of the last signature below and is effective through December 31, 2018. The MOU may, however, be extended by written mutual consent of the parties to this MOU.

IN WITNESS WHEREOF, the parties hereto have caused this Reciprocal Right-of-Way Memorandum of Understanding to be properly executed by their authorized representatives on the day and year first above written.

**STATE OF ALASKA**

By Mike Barton  
Michael A. Barton  
Commissioner  
Department of Transportation and Public Facilities

9/22/16  
Date

By Michael L. Menge  
Michael L. Menge  
Commissioner  
Department of Natural Resources

9/29/06  
Date

**UNITED STATES OF AMERICA**

By Dennis E. Bschor  
Dennis E. Bschor, Regional Forester  
Forest Service, Alaska Region  
United States Department of Agriculture

7/22/2006  
Date

The authority and format of this instrument has been reviewed and approved for signature.

/s/Linda L. Jones      September 20, 2006  
FS Agreement Specialist      Date

## **List of Attachments**

Attachment A	Map 92337
Attachment B	Right-of-Way Easement (MOU Paragraph D.1)
Attachment C	Right-of-Way Easement (MOU Paragraph D.2)
Attachment D	Listing of Transportation and Utility Corridors
Attachment E	Public Easement (ADL) (MOU Paragraph E.1)
Attachment F	Listing of Log Transfer Sites

**U. S. DEPARTMENT OF AGRICULTURE**  
**Forest Service**  
**Right of Way Easement**  
**Section 4407 of Public Law 109-59**

THIS EASEMENT (hereafter ROW Easement), is made this **DAY**th day of **Month Year** between the United States of America, acting by and through the United States Department of Agriculture, Forest Service (hereafter Grantor), and the State of Alaska, acting by and through the Department of Transportation and Public Facilities (hereafter Grantee):

WITNESSETH:

WHEREAS, pursuant to Section 4407 of Public Law 109-59, the United States Congress has directed that the reciprocal rights-of-way and easements identified on a map numbered 92337 be enacted and thereby granted between the United States and the State of Alaska; and

WHEREAS, Grantor and Grantee have entered into a Memorandum of Understanding (MOU), dated **\_\_\_\_\_**, to establish a framework and process for granting such reciprocal rights-of-way and easements, including this ROW Easement and any subsequent conditioned easement for construction, operations, and maintenance of highway and utility developments;

NOW THEREFORE, Grantor, as authorized by law, does hereby grant and convey to Grantee, subject to conditions, restrictions and limitations of record, a right-of-way easement of approximately 300 feet in width, for a term of fifty (50) years, which is non-renewable, for highway and utility planning purposes, including the right to conduct engineering and all other activities necessary or incident to highway and utility planning, design and environmental review processes, along, over and across the following described lands within the **(Juneau/Sitka/Ketchikan/Petersburg)** Recording District based on protracted Sections, Townships (T), and Ranges (R) located South (S) and East (E) of the Copper River Meridian.

**LOCATION DESCRIPTION HERE**

And as shown in the attached Easement Diagram titled "**TITLE OF EASEMENT DIAGRAM**" dated **DATE OF EASEMENT DIAGRAM**

Containing approximately **Number of Acres** acres more or less

SUBJECT, however, to the following terms, conditions, and covenants:

1. Easements, rights and reservations of the United States and third parties, if any, of record existing on the date of this grant, and Grantee shall obtain such permission as may be necessary on account of any such interests.
2. Unless Grantor and Grantee stipulate otherwise, this ROW Easement shall terminate fifty (50) years from the date of the execution of this ROW Easement by operation of its terms in the event construction of a highway or utility on the right-of-way described herein is not authorized by a grant of a fifty-five year renewable easement pursuant to the MOU. The grant of such fifty-five year easement shall, without further action by Grantor or Grantee, terminate this ROW Easement.
3. The rights granted herein are limited to use of the described right-of-way and do not include the grant of any rights for non-highway or non-utility planning purposes; Provided, that the right of the Grantor to use or authorized the use of any portion of the right-of-way for non-highway and non-utility purposes shall not be exercised when such use would be inconsistent with the rights granted herein.
4. The jurisdiction and operational control of any roads located within the lands described herein existing as of the date of the execution of this ROW Easement are not affected by this grant, but Grantor and

Grantee may agree upon the transfer of jurisdiction or sharing of operational responsibilities by separate agreement.

5. All rights not otherwise granted and conveyed to Grantee herein are reserved to the United States, including, but not limited to, the right to the standing timber within the right-of-way, the subsurface estate, the right of public access and use, the right to regulate acts or omissions, and the right to enforce regulations related to the occupancy and use of National Forest System Lands. Such rights will be exercised in such a manner so as not to unreasonably interfere with the rights granted herein.

6. Grantee may conduct such necessary surveys and investigations as are necessary for the preparation of plans and drawings for future construction or placement of highway and/or utility developments within the land area described herein, including brushing for ground surveys, geotechnical investigations to determine foundation conditions, and other similar actions. Grantee shall, in advance, advise Grantor of its plans for field activities and of any changes there to.

7. Grantee shall comply with all applicable law in the performance of the rights granted herein.

8. (a). Grantee's liability and obligation to pay the United States for all injury, loss, or damage, including fire suppression costs, arising from Grantee's use or occupancy authorized by this ROW easement shall be determined in accordance with existing Federal and State laws. A judicial determination of liability of Grantee is not a condition precedent for the United States to recover under the State's self-insurance program.

(b). Grantee is self-insured and enjoys no blanket statutory caps limiting Grantee's liability. If Grantee subsequently passes legislation modifying its self-insurance program or creating blanket liability caps in such a manner as to reduce the liability protections provided in this ROW easement, Grantor may demand that paragraph 8(a) be renegotiated. If the parties are unable through good faith negotiations to agree on mutually satisfactory terms, Grantee shall be provided the reasonable opportunity to obtain legislation to resolve the matter. If neither negotiations nor legislation is successful in resolving liability concerns, Grantor may revoke this ROW easement.

(c). Grantee has waived sovereign immunity for enforcement of contracts pursuant to AS 09.50.250. If this provision is subsequently amended by the Alaska legislature, Grantor may demand that sub-paragraph 8(a) be renegotiated to provide for a cause of action to enforce the terms and conditions of this ROW easement against the State of Alaska in the event the United States is otherwise unable to do so. If the parties are unable through good faith negotiations or legislation to provide the United States with a cause of action to enforce the terms and conditions of this ROW easement against the State of Alaska, Grantor may revoke this ROW.

(d). Any permit or contract issued by Grantee to a utility under this ROW easement must require the utility to maintain liability insurance commensurate with the risk of the approved occupancy and use and must require that Grantor be named as an additional insured in the insurance policy.

IN WITNESS WHEREOF, the Grantor, by its **TITLE** Forest Service, has executed this easement pursuant to the delegation of authority to the Chief, Forest Service, 7 CFR 2.60, and the delegation of authority by the Chief, Forest Service, dated August 22, 1984 (49 FR 34283), on the day and year first above written.

UNITED STATES OF AMERICA

By: **SIGNATURE**

For NAME  
Regional Forester  
Forest Service  
Department of Agriculture

## ACKNOWLEDGEMENT

STATE OF ALASKA )  
 ) ss.  
1<sup>st</sup> JUDICIAL DISTRICT)

ON THIS **DAY** day of **MONTH** in the year **YEAR**, before me, the undersigned notary public, personally appeared **SIGNATURE\_NAME** known to me to be the person whose name is subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

**SIGNATURE**  
Notary Public

My commission expires MM/DD/YYYY

Return to: FOREST SERVICE LANDS NAME AND ADDRESS

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0596-0082.

This information is needed by the Forest Service to evaluate requests to use National Forest System lands and manage those lands to protect natural resources, administer the use, and ensure public health and safety. This information is required to obtain or retain a benefit. The authority for that requirement is provided by the Organic Act of 1897 and the Federal Land Policy and Management Act of 1976, which authorize the Secretary of Agriculture to promulgate rules and regulations for authorizing and managing National Forest System lands. These statutes, along with the Term Permit Act, National Forest Ski Area Permit Act, Granger-Thye Act, Mineral Leasing Act, Alaska Term Permit Act, Act of September 3, 1954, Wilderness Act, National Forest Roads and Trails Act, Act of November 16, 1973, Archaeological Resources Protection Act, and Alaska National Interest Lands Conservation Act, authorize the Secretary of Agriculture to issue authorizations for the use and occupancy of National Forest System lands. The Secretary of Agriculture's regulations at 36 CFR Part 251, Subpart B, establish procedures for issuing those authorizations.

The Privacy Act of 1974 (5 U.S.C. 552a) and the Freedom of Information Act (5 U.S.C. 552) govern the confidentiality to be provided for information received by the Forest Service.

Public reporting burden for this collection of information, if requested, is estimated to average 1 hour per response for annual financial information; average 1 hour per response to prepare or update operation and/or maintenance plan; average 1 hour per response for inspection reports; and an average of 1 hour for each request that may include such things as reports, logs, facility and user information, sublease information, and other similar miscellaneous information requests. This includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

**U. S. DEPARTMENT OF AGRICULTURE**  
**Forest Service**  
**Right of Way Easement**  
**Section 4407 of Public Law 109-59)**

THIS EASEMENT (hereafter ROW Easement), is made this \_\_\_\_\_ day of \_\_\_\_\_ 2006, by and between the United States of America, acting by and through the United States Department of Agriculture, Forest Service (hereafter Grantor or Forest Service), and the State of Alaska, acting by and through the Department of Transportation and Public Facilities (hereafter Grantee):

WITNESSETH:

WHEREAS, pursuant to Section 4407 of Public Law 109-59, the United States Congress has directed that the reciprocal rights-of-way and easements identified on a map numbered 92337 be enacted and thereby granted between the United States and the State of Alaska; and

WHEREAS, Grantor and Grantee have entered into a Memorandum of Understanding (MOU), to establish a framework and process for granting such reciprocal rights-of-way and easements;

NOW THEREFORE, Grantor, as authorized by law, does hereby grant and convey to Grantee a non-exclusive, renewable right-of-way easement for the construction, reconstruction, operation and maintenance of highways, utilities, and other linear transportation and utility purposes along, over and across the following described lands:

**[LEGAL DESCRIPTION]**

And as shown in the attached Easement Diagram titled “**TITLE OF EASEMENT DIAGRAM**” dated **DATE OF EASEMENT DIAGRAM**

Containing approximately \_\_\_\_\_ acres more or less.

SUBJECT, however, to the following terms, conditions, and covenants, which shall run with the land and be enforceable by Grantor or its subsequent transferees:

1. Definitions:
  - (a) The term “clear zone” shall mean the total roadside border area, starting at the edge of the traveled way, available for safe use by errant vehicles. This area may consist of a shoulder, a recoverable slope, a non-recoverable slope, and/or a clear run-out area. The desired minimum

width is dependent upon traffic volumes and speeds and on the roadside geometry.

- (b) The term “construction” shall mean the supervising, inspecting, actual building, reconstruction, alteration, improvement or major repair, and incurrence of all costs incidental to the construction or reconstruction of a highway or utility.
  - (c) The term “construction limits” means a footprint marking the National Forest System lands impacted by construction, and is the distance between clearing limits, or if there are no clearing limits on one or both sides of the roadway or utility, then as applicable, a distance from clearing limit to slope limit plus ten feet, or from slope limit to slope limit plus ten feet on either side.
  - (d) The term “highway” shall mean any public way for vehicular travel and other transportation related uses, including the entire area within the right-of-way and related facilities.
  - (e) The term “utility” or “utilities” includes but is not limited to, poles, lines, trenches, bridges, utildors, tunnels, pipelines, and any other system for furnishing, producing, generating, transmitting, or distributing power, electricity, communications, telecommunications, water, steam, heat, light, air, sewage, drainage not connected with highway drainage, or irrigation.
  - (f) The term “temporary road” shall mean a road necessary for emergency operations or authorized by contract, permit, lease, or other written authorization that is not included in a public transportation system and is used for official use only.
  - (g) The term “right-of-way” shall mean the land described herein encumbered by this ROW Easement.
2. The ROW Easement shall be 300' in width or the width of the construction limits, whichever is greater.
3. This ROW Easement is not assignable or transferable except that DOT&PF may transfer to another public authority with transportation system powers. Grantee may contract with, and issue permits to, third parties for the construction, reconstruction, operation, and maintenance of highways and utilities. Such third parties shall adhere to the terms and conditions of this ROW Easement.
4. This ROW Easement is subject to valid existing rights. Grantee shall obtain such permission as may be necessary on account of any such interests. The United States is not liable to Grantee for the exercise of any such right or claim.

5. Unless other procedures are specified in a project-specific cooperative agreement with another federal agency, prior to engaging in earth disturbing activities, Grantee and the Regional Forester shall make determinations as to the necessity for archeological and paleontological reconnaissance and salvage within the right-of-way, and such reconnaissance and salvage to the extent determined necessary because of construction, reconstruction, operation and maintenance of highways and utilities, is to be undertaken by Grantee in compliance with the acts entitled An Act for the Preservation of American Antiquities, approved June 8, 1906 (34 Stat. 225, 16 U.S.C. 432-433), the Archaeological Resources Protection Act of 1979 (93 Stat. 721, 16 U.S.C. 470aa-470ll), and State laws where applicable.

Grantee shall immediately notify the Regional Forester, Region 10 (hereafter Regional Forester) of any and all antiquities or other objects of historic or scientific interest, and shall take no action with respect thereto until after such consultation has occurred. These include, but are not limited to, historic or prehistoric ruins, fossils, or artifacts discovered as the result of operations under this ROW Easement. Protective mitigative measures specified by the Regional Forester or other appropriate state or federal agency shall be the responsibility of Grantee.

Prior to engaging in earth disturbing activities, Grantee shall survey the lands encompassed by this ROW Easement within the construction limits for the presence of any threatened, endangered, rare, or sensitive species that have been listed under the Endangered Species Act or on lists maintained by the Regional Forester. The surveys shall follow applicable published federal protocols in effect at the time, and shall be documented in a Biological Evaluation provided to the Regional Forester and to other agencies with applicable statutory responsibilities. Based on the results of the Biological Evaluation, mitigation measures may be identified by the Regional Forester to minimize identified effects or to avoid implementation of other protective requirements authorized by law.

6. Unless Grantor and Grantee stipulate otherwise, this ROW Easement shall terminate fifty-five (55) years from the date of the execution of this ROW Easement by Grantor in the event construction of a highway or utility within the right-of-way does not occur during such fifty-five-year period.

7. The ROW Easement granted herein is limited to use for the purpose of construction, operation, and maintenance of a highway, utilities and other linear transportation and utility purposes (in accordance with the approved plans described in paragraph 9), and does not include the grant of any rights for non-highway or non-utility purposes or facilities: Provided, That the right of Grantor to use or authorize the use of any portion of the right-of-way for non-highway or non-utility purposes shall not be exercised when such use would be inconsistent with the rights granted herein or would interfere with the free flow of traffic or impair the full use and safety of the highway, and in any case, Grantee shall be consulted prior to the exercise of such rights; and Provided

further, That nothing herein shall preclude Grantor from locating National Forest and other Department of Agriculture information signs on the portions of the right-of-way outside of the clear zone. All rights not otherwise granted and conveyed to Grantee herein are reserved to the United States.

8. If the highway project is federally funded, the design and construction of highway project(s) situated within this right-of-way shall be in accordance with the provisions of Title 23, United States Code--Highways, and amendments; the Regulations for the Administration of Federal Aid for Highways, in effect at the time of construction; and amendments and established procedures for Federal-aid projects, including the requirements of Title 23, Code of Federal Regulations, part 771, and the construction specifications of the State highway department as approved by the Federal Highway Administration for use on Federal-aid projects.

If the highway project is not federally funded and the intended traffic include general public access and use, the highway construction shall meet either the current policy and standards of *The American Association of State Highway Officials (AASHTO)* or the standards established by the Forest Service suitable for passenger car use, or similar policy and standards approved by the Regional Forester. The parties may agree to apply relevant portions of Grantee's Preconstruction Manual where appropriate or needed. Where the intended use does not include general public access, only temporary roads associated with construction, reconstruction, operation, or maintenance of a highway or utility may be constructed. Such temporary roads shall meet all applicable federal requirements and applicable federal best management practices. When the intended use ends, temporary roads shall be decommissioned so that vehicle travel is not practicable and such decommissioning shall occur no later than 3 years from temporary road construction unless otherwise approved by the Regional Forester.

9. The Regional Forester shall be provided an opportunity to review highway and utility construction plans relative to the effects, if any, the implementation of such plans will have upon National Forest System lands and resources. Those features of design, construction, reconstruction, and maintenance of the highway or utilities and any use of the right-of-way that would have an effect on the protection and utilization of National Forest lands and resources are to be mutually agreed upon by the Regional Forester and Grantee during the preparation of the plans and specifications for each construction project, and the plans shall be revised, modified, or supplemented to meet the approval of the Regional Forester, or when deemed appropriate, supplemented by written stipulation between the Regional Forester and Grantee, prior to start of construction.

If not addressed specifically in approved plans, Grantee shall obtain prior written approval from the Regional Forester before removing or altering vegetation or other resources. Grantee shall also obtain prior written approval from the Regional Forester before planting trees, shrubs, or other vegetation within the right-of-way.

Grantee shall provide the Regional Forester electronically formatted information indicating the final as-built plans, maps, surveys, and other similar information upon completion of construction. The electronic format shall be compatible with the Forest Service geographic information system.

Approvals required under this paragraph shall not be unreasonably withheld.

10. Grantee shall:

- (a) Protect and preserve soil and vegetative cover and scenic and esthetic values on the right-of-way outside of construction limits.
- (b) Grantee shall implement either State or Federal Best Management Practices to provide for the prevention and control of noxious weeds, invasive species, soil erosion, and gullying within the right-of-way and adjacent lands that might be affected by the construction, reconstruction, operation, or maintenance of the highway and utilities; and Grantee shall vegetate and keep vegetated with suitable species all earth cut or fill slopes feasible for revegetation, and in other areas on which ground cover is destroyed where it is deemed necessary during a joint review between the Regional Forester and Grantee prior to completion of the highway or utility. Grantee shall maintain all terracing, water bars, leadoff ditches, or other preventive works that may be required to accomplish this objective. This provision shall also apply to slopes that are reshaped following slides that occur during or after construction.
- (c) With respect to utility lines, clear designated parts of the right-of-way and keep them clear as required by the Forest Service; shall trim all branches of trees in contact with or near the line; shall remove all dead snags and all trees that are leaning toward the line on or adjacent to the right-of-way; and shall observe such other fire precautions as may be required; but all waste material shall be burned or otherwise disposed of to the satisfaction of the Forest Service. The clearing width shall be restricted to that necessary for safe transmission, unless the specific permission of the Forest Service for a greater clearing width is obtained.

11. Grantor reserves the subsurface estate, including minerals and common varieties of mineral materials within or near the right-of-way. Unless authorized in a plan approved by the Regional Forester pursuant to paragraph 9, Grantee shall not establish borrow, sand, or gravel pits, stone quarries, permanent storage areas, sites for highway or utility operation and maintenance facilities, camps, supply depots, or disposal areas outside of the construction limits without first obtaining a special use authorization from Grantor.

12. Grantee shall maintain the right-of-way clearing by means of chemicals only after consultation and approval of the Regional Forester. Consultation must address the time, method, chemicals, and the exact portion of the right-of-way to be chemically treated.

13. Grantee shall operate the described property and its appurtenant areas and its buildings and facilities whether or not on the land therein granted, in full compliance with Title VI of the Civil Rights Act of 1964 and all requirements imposed by or pursuant to the regulations issued there under by the Department of Agriculture and in effect on the date of this document to the end that no person in the United States shall, on the grounds of race, sex, color, religion, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any programs or activities provided thereon; and

The United States shall have the right to judicial enforcement of these covenants not only as to Grantee but also as to lessees and licensees doing business or extending services under contractual or other arrangements on the land therein conveyed.

14. When need for this ROW Easement no longer exists, Grantee shall give notice of that fact to the Regional Forester and the rights herein granted shall terminate. Grantee shall remove improvements to the extent practicable, and in accordance with federal regulations, restore wetlands and hydrologic function to match the nearby terrain, and re-establish vegetative cover. The land shall revert immediately to the full control of the Department of Agriculture, Forest Service.

15. Grantee shall plan and construct approaches and approach aprons for existing and proposed Forest Service roads and trails as requested by the Forest Service during plan review. Grantee shall ensure that construction, reconstruction, operations, and maintenance performed under this easement do not unreasonably interfere with any travel along Forest Service roads and trails, provided that short term blockages may be approved by the Forest Service in advance.

Grantee shall mitigate the effects of construction, reconstruction, operation, and maintenance of the highway or utility facilities through the use of pullouts for scenic viewsheds, wildlife crossings to reduce mortality, and other similar measures identified during the project planning and review process provided for in paragraph 9 of this ROW Easement.

16. Grantor reserves the right of unrestricted access within the ROW Easement area or any facility thereon to ensure compliance with laws, regulations, and ordinances and the terms of this ROW Easement. Grantor further reserves the right of public access and use so long as such use does not unreasonably interfere with, limit, or obstruct the rights granted herein.

17. Nothing in this ROW Easement allows or implies rights of third parties to construct, reconstruct, operate or maintain any structure or facility or to conduct any use

or activity, except as may be specifically provided for herein or done pursuant to paragraph 9 authorized highway or utility uses or plans. Any use not identified in this ROW Easement must be authorized by the Regional Forester in the form of a special use authorization.

18. This ROW Easement is renewable, subject to the following conditions:

- (a) The right-of-way is being used for the purposes previously authorized.
- (b) The right-of-way and constructed highways and utilities are being operated and maintained in accordance with the provisions of this ROW Easement.
- (c) Grantee is otherwise in compliance with applicable Federal contracts, permits, laws, or regulations.
- (d) Grantor may not refuse to renew the ROW Easement for the foregoing conditions without reasonable notification to Grantee before expiration of the easement term, and shall provide Grantee with the reasonable opportunity to cure any instance of non-compliance. Notifications of non-compliance received less than one year before the time set for renewal shall extend the renewal date one year from the date of notification.

19. Notwithstanding the provisions of any prior or other easement, Grantor and Grantee may jointly agree to prescribe new terms, conditions, and stipulations when a new easement is issued. Grantor shall include all terms, conditions, and stipulations required by laws in effect at the time of renewal.

20. Grantee shall comply with all applicable Federal, State, and local laws, regulations, and standards, including but not limited to, the Federal Water Pollution Control Act, 33 U.S.C. 1251 et seq., the Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq., the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S. C. 9601 et seq., and other relevant environmental laws, as well as public health and safety laws and other laws relating to the siting, construction, operation, and maintenance of any facility, improvement, or equipment on the property.

21. Grantee shall maintain the improvements and right of way area to protect National Forest System lands and resources. Grantee shall remedy any deficiencies noted during Grantor's inspection.

22. Grantee shall inform Grantor of any known conditions posing a risk of harm to Grantor's lands or the public, and where any major abatement work becomes necessary, shall coordinate with and inform Grantor. Emergency situations shall be reported as soon as practicable.

23. Grantor reserves all timber now or hereafter growing within the right-of-way, subject to Grantee's right to purchase and then cut such timber in accordance with Forest Service regulations.

24. Grantee assumes all risk of loss to the improvements authorized in this ROW Easement.

25. (a) Grantee's liability and obligation to pay the United States for all injury, loss, or damage, including fire suppression costs, arising from Grantee's use or occupancy authorized by this ROW easement shall be determined in accordance with existing Federal and State laws. A judicial determination of Grantee's liability is not a condition precedent for the United States to recover under the State's self-insurance program.

(b) Grantee is self-insured and enjoys no blanket statutory caps limiting Grantee's liability. If Grantee subsequently passes legislation modifying its self-insurance program or creating blanket liability caps in such a manner as to reduce the liability protections provided in this ROW easement, Grantor may demand that sub-paragraph 25(a) be renegotiated. If the parties are unable through good faith negotiations to agree on mutually satisfactory terms, Grantee shall be provided the reasonable opportunity to obtain legislation to resolve the matter. If neither negotiations nor legislation is successful in resolving liability concerns, Grantor may revoke this ROW easement.

(c) Grantee has waived sovereign immunity for enforcement of contracts pursuant to AS 09.50.250. If this provision is subsequently amended by the Alaska legislature, Grantor may demand that sub-paragraph 25(a) be renegotiated to provide for a cause of action to enforce the terms and conditions of this ROW easement against the State of Alaska in the event the United States is otherwise unable to do so. If the parties are unable through good faith negotiations or legislation to provide the United States with a cause of action to enforce the terms and conditions of this ROW easement against the State of Alaska, Grantor may revoke this ROW.

(d) Any permit or contract issued by Grantee to a utility under this ROW easement must require the utility to maintain liability insurance commensurate with the risk of the approved occupancy and use and must require that Grantor be named as an additional insured in the insurance policy. Grantor shall have the right to review and approve the utility's insurance policy before approving any project pursuant to paragraph 9.

26. Grantee has an affirmative duty to protect from damage the land, property, and interests of the United States and shall provide proof of insurance.

27. The Forest Service has no duty to inspect the ROW Easement area or to warn of hazards and, if the Forest Service does inspect the ROW Easement area, it shall incur no additional duty nor liability for identified or non-identified hazards. This covenant may be enforced by the United States in a court of competent jurisdiction.

28. Grantee shall protect, in place, all public land survey monuments, private property corners, and Forest boundary markers. In the event that any such land markers or monuments are destroyed in the exercise of the privileges permitted by this ROW Easement, depending on the type of monument destroyed, Grantee shall see that they are reestablished or referenced in accordance with (1) the procedures outlined in the "Manual of Instructions for the Survey of the Public Land of the United States," (2) the specifications of a licensed surveyor, or (3) the specifications of the Forest Service.

Further, Grantee shall cause such official survey records as are affected to be amended as provided by law. Nothing in this clause shall relieve Grantee's liability for the willful destruction or modification of any Government survey marker as provided at 18 U.S.C. 1858.

29. Upon transfer of ownership of land interests subject to this ROW Easement, the transferee shall succeed and become entitled to any and all interests of the United States as Grantor of this ROW easement. The administration of this ROW Easement shall continue to be by the Forest Service unless the Forest Service waives administration after consultation with Grantee.

30. Upon receipt of project plans for utilities pursuant to paragraph 9, Grantor, in consultation with Grantee, shall determine whether a bond is necessary to secure all or any of the obligations imposed by the terms of this ROW Easement.

IN WITNESS WHEREOF, Grantor, by its Regional Forester, Forest Service, has executed this easement pursuant to the delegation of authority to the Chief, Forest Service, 7 CFR 2.60, and the delegation of authority by the Chief, Forest Service, dated August 22, 1984 (49 FR 34283), on the day and year first above written.

UNITED STATES OF AMERICA

By: SIGNATURE

For NAME

Regional Forester

Forest Service

Department of Agriculture

## ACKNOWLEDGEMENT

STATE OF ALASKA )  
 ) ss.  
1<sup>st</sup> JUDICIAL DISTRICT )

ON THIS [REDACTED] day of [REDACTED] in the year [REDACTED], before me, the undersigned notary public, personally appeared [REDACTED] known to me to be the person whose name is subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Notary Public

My commission expires

Return to: FOREST SERVICE LANDS NAME AND ADDRESS

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0596-0082.

This information is needed by the Forest Service to evaluate requests to use National Forest System lands and manage those lands to protect natural resources, administer the use, and ensure public health and safety. This information is required to obtain or retain a benefit. The authority for that requirement is provided by the Organic Act of 1897 and the Federal Land Policy and Management Act of 1976, which authorize the Secretary of Agriculture to promulgate rules and regulations for authorizing and managing National Forest System lands. These statutes, along with the Term Permit Act, National Forest Ski Area Permit Act, Granger-Thye Act, Mineral Leasing Act, Alaska Term Permit Act, Act of September 3, 1954, Wilderness Act, National Forest Roads and Trails Act, Act of November 16, 1973, Archaeological Resources Protection Act, and Alaska National Interest Lands Conservation Act, authorize the Secretary of Agriculture to issue authorizations for the use and occupancy of National Forest System lands. The Secretary of Agriculture's regulations at 36 CFR Part 251, Subpart B, establish procedures for issuing those authorizations.

The Privacy Act of 1974 (5 U.S.C. 552a) and the Freedom of Information Act (5 U.S.C. 552) govern the confidentiality to be provided for information received by the Forest Service.

Public reporting burden for this collection of information, if requested, is estimated to average 1 hour per response for annual financial information; average 1 hour per response to prepare or update operation and/or maintenance plan; average 1 hour per response for inspection reports; and an average of 1 hour for each request that may include such things as reports, logs, facility and user information, sublease information, and other similar miscellaneous information requests. This includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

<b>Attachment D Listing of Transportation &amp; Utility Corridors</b>	<b>2006</b>	<b>2007</b>
Lynn Canal East	X	
Kake-Petersburg	X	
Greens Creek	X	
Tenakee - Hoonah	X	
Peril Strait	X	
Bradfield	X	
Tyee-Wrangell-Blake-Channel-Eastern Passage	X	
Wrangell - Fools Inlet	X	
Wrangell-Fools Inlet to Eastern Passage		X
Revillagigedo Island Cleveland Peninsula		X
Kake - South Kuperanof		X
Prince of Wales Island - South		X
Sitka - Rodman Bay		X
Sitka Baranof		X
Lynn Canal - West		X
Taku Valley - North		X
Taku Valley - East		X
Hoonah - Whitestone Harbor		X
North Prince of Wales Highway - Whale Pass - Exchange Cove		X

STATE OF ALASKA  
DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF MINING, LAND & WATER, SOUTHEAST REGION  
400 Willoughby Ave., P.O. Box 111020  
Juneau, Alaska 99811-1020

**PUBLIC EASEMENT**  
**ADL [REDACTED]**

THIS EASEMENT made and entered into this [REDACTED] day of [REDACTED], 20[REDACTED], by and between the State of Alaska, acting by and through the Department of Natural Resources, Division of Mining, Land and Water, and hereinafter referred to as Grantor, and the United States of America, acting through the Department of Agriculture, Forest Service, hereinafter referred to as Grantee.

WITNESSETH, that in accordance with the provisions of Section 4407 of Public Law 109-59, the Memorandum of Understanding between the State of Alaska and the United States Forest Service, dated [REDACTED], 20[REDACTED], hereafter referred to as the MOU, and AS 38.05.850 and the rules and regulations promulgated thereunder, Grantee having filed an application with the Division for an easement for a log transfer facility known as [REDACTED], together with a map showing the definite location thereon of the line of easement, which Grantee has adopted and agrees to be the specific and definite location of the aforesaid easement, and

WHEREAS, it is understood and agreed by Grantee herein that, as a condition to the granting of the easement applied for, the land covered by said easement shall be used for the location, construction, operation and maintenance of the said easement over and across the following described State lands, to wit:

The easement area depicted on the easement diagram for ADL [REDACTED] is attached hereto as Attachment A. The easement is located within Section [REDACTED], Township [REDACTED] South, Range [REDACTED] East, Copper River Meridian.

The said easement area contains a total of [REDACTED] acres, more or less.

SUBJECT, however, to the following terms, conditions and covenants, which shall run with the land and be enforceable by Grantor or its subsequent transferees.

In the event that the easement herein granted shall in any manner conflict with or overlap a previously granted right-of-way or easement, Grantee shall use this easement in such a manner as not to interfere with the peaceful use and enjoyment of the previously issued right-of-way or easement, and no improvements shall be constructed by Grantee herein upon the overlapping area unless consent has first been obtained from Grantee under the pre-existing right-of-way or easement.

Grantee in the exercise of the rights and privileges granted by this easement shall comply with all applicable regulations now in effect or as hereafter established by the Division of Mining, Land and Water, and all other applicable federal, State or municipal laws, regulations or ordinances.

### **SPECIAL CONDITIONS**

1. Unless Grantor and Grantee stipulate otherwise, this easement shall terminate fifty-five (55) years from the date of the execution of this easement by Grantor in the event that construction of improvements within the easement area does not occur during such fifty-five-year period.

2. This easement is renewable, subject to the following conditions:

a. The easement area is being used for the purposes previously authorized.

b. The easement area and constructed improvements are being operated and maintained in accordance with the provisions of this easement.

c. Grantee is otherwise in compliance with applicable State and federal laws and regulations.

d. Grantor may not refuse to renew this easement for the foregoing conditions without reasonable notification to Grantee before expiration of the easement term, and will provide the Grantee with the reasonable opportunity to cure any instance of non-compliance. Notifications of non-compliance received less than one year before the time set for renewal shall extend the renewal date for one year from the date of notification.

3. Pursuant to the MOU, this easement is granted without fee or charge to Grantee.

4. This easement is non-exclusive. The authority to permit third-party use within the area encumbered by the easement is expressly reserved by the State, except that such use shall not unreasonably interfere with the rights of Grantee, including the ability of Grantee to restrict third-party use for purposes of public safety or the enforcement of federal regulations. Grantor shall consult with Grantee prior to permitting such use.

5. Grantor reserves the right to the standing timber, the mineral estate, the right of public access and use, the right to regulate acts or omissions, and the right to enforce regulations related to the occupancy and use of State land.

6. Grantor reserves the right to allow other like or compatible uses of the easement, and to require such users to enter into an equitable maintenance agreement with Grantee, the equitableness of which shall be determined by Grantor upon consultation with Grantee.

7. Grantee may authorize its contractors and permittees to cross the easement in order to access National Forest System lands. Grantor shall not require a permit or other written authorization for users that access National Forest System lands through the easement, except that the State may require a third party to obtain a permit or other written authorization for access through the easement to a lodge, hotel, industrial facility, or other similar permanent improvement located on National Forest System lands or other public lands.

8. Grantor assumes no responsibility for maintenance of improvements constructed within the easement, or any liability for injury or damage attributable to that construction. Grantor makes no warranty that the land is suitable for the intended use.

9. Subject to paragraph 4 above, public access shall not be precluded by activities or structures allowed by this easement. All operations must be conducted in a manner that will ensure minimum conflict with other users of the area. Grantee shall not close landing areas or trails or otherwise prevent access over State land commonly used by the public. The interests served by the public trust doctrine, specifically the rights of the public to use navigable waterways and the land beneath them for navigation, commerce, fishing, hunting, ecological study, and other purposes, will be protected. Interference with these rights is an actionable cause at law; however, the ability of Grantee to restrict access for purposes of public safety or enforcement of federal regulations is recognized.

10. The United States shall be responsible for the activities or conduct of its employees directly connected with the use and occupancy of the easement in accordance with applicable law. The United States shall be responsible for any loss or damage arising from the use and occupancy authorized by the easement, strictly to the extent provided by the Federal Tort Claims Act and other applicable law. Nothing in this easement shall be construed as obligating the United States to expend, or as involving the United States, in any obligation for the future payment of money in excess of appropriations authorized by law and administratively made available.

11. Fuel use and storage shall occur in a manner that avoids toxic discharge and runoff. Grantee is responsible for preventing spills and contamination of contiguous land and water, and for cleaning up any oil or other pollution resulting from activities associated with this easement in accordance with all applicable State and federal laws and regulations.

12. Authorized representatives of the State of Alaska shall at all times have the right to enter on official business and inspect the easement area, including Grantee's improvements. Grantee has no duty to inspect the easement area or to warn of hazards, and if Grantee does inspect the easement area, it shall incur no additional duty or liability for identified or non-identified hazards.

13. The development of the easement area shall be limited in form and scope to the area and improvements specified in the development plan, which shall be provided to Grantor prior to development. Grantee is responsible for accurately siting development and operations within this

area. Use of the area for purposes other than those specified in this easement is a violation of the terms and conditions of the easement. The proposed development plan, and any subsequent proposed revisions thereto, must be approved in writing by Grantor before use or development occurs; such approval shall not be unreasonably withheld. Development and operations shall conform to those approved under the Alaska Coastal Management Program consistency determination.

14. No performance guarantee is required.

15. Grantee shall, at its expense, comply with all applicable laws, regulations, rules and orders, and with the requirements and conditions of this easement. Grantee shall ensure compliance by its employees, agents, contractors, subcontractors, licensees, or invitees.

16. Disposal of wastewater from any operation associated with this easement to State lands or waters is specifically prohibited without prior approval from the Alaska Department of Environmental Conservation (ADEC).

17. All solid waste and debris generated from the activities conducted under this easement shall be stored, accumulated and removed in accordance with applicable federal and State laws and regulations.

18. The intermittent, non-permanent use of anchors and associated chains or buoys outside of the boundary of the easement area, but necessary to facilitate short-term use of the easement area, is hereby granted. The proposed approximate number and locations of these anchors are identified in Attachment A. Anchors shall be set prior to the beginning of operations necessitating their use and removed at the end of such operations. The installation of any permanent anchor outside of the easement area is not allowed without prior written authorization from the State of Alaska.

19. In the event that Grantor determines that, due to adjacent uses or other considerations, it is necessary that an Alaska Tideland Survey of the easement area and constructed improvements thereon, if any, be completed, Grantee agrees to comply with all requirements of the State of Alaska regarding the completion of such survey.

20. Upon termination of this easement, Grantee shall remove all structures and improvements from the area herein granted, except those owned by Grantor, and shall restore the area to the same or similar condition as it was upon the issuance of this easement. Should Grantee fail or refuse to remove the structures or improvements, they shall revert to and become the property of Grantor. However, Grantee shall not be relieved of the cost of the removal of the structures, improvements and/or the cost of restoring the area. Grantor, in its discretion, may waive any of the requirements of this provision if it is in the best interest of the State of Alaska to do so.

21. Grantee has an affirmative duty to protect from damage the land, property, and interests of the State of Alaska, to utilize the land interests herein granted consistent with the purposes of the



My Commission expires \_\_\_\_\_

**GRANTEE:**

**United States Department of Agriculture  
Forest Service**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF ALASKA )  
 ) ss  
FIRST JUDICIAL DISTRICT )

This is to certify that on the \_\_ day of \_\_\_\_\_, 20\_\_, before me the undersigned Notary Public in and for the State of Alaska, personally appeared \_\_\_\_\_, known to me to be the \_\_\_\_\_ of \_\_\_\_\_, and (s)he acknowledged to me that (s)he executed the same for and on behalf of said municipality, and that (s)he is fully authorized by said municipality to do so, and (s)he acknowledged to me that (s)he signed and executed the same freely and voluntarily for the uses and purposes stated therein.

Notary Public for the State of Alaska  
My Commission expires\_\_\_\_\_

After recording in the                      Recording District, return this document to the Division of Mining, Land and Water, 400 Willoughby Ave., P.O. Box 111020, Juneau, Alaska 99811-1020.

## Attachment A - Easement Diagram

**Memorandum of Understanding Attachment F**  
**Listing of Log Transfer Sites**

Map Number	LTF
21	EAST_12_MILE_NORTH
98	MCKENZIE_INLET_E
105	SUNNY_COVE
223	EMERALD_BAY
349	MUD_BAY
363	SITKOH_BAY
106	CHOMLY
116	CANNERY_COVE
120	W_ARM_MOIRA
124	S_ARM_MOIRA
269	WOEWODSKI_IS
351	EAGLE_RIVER
367	OLY_CREEK
420	JENKINS <sup>1</sup>
421	MOOSE <sup>2</sup>
6	DEVILFISH_BAY
76	ORR_ISLAND_SE
119	KEGAN_COVE
128	KASSA_INLET_N
129	HASSIAH_INLET
149	KEETE_S
235	BURNETTE_INLET
247	VEGA_PT
248	BERG_BAY <sup>3</sup>
259	WORONKOFSKI
315	FANSHAW_BAY
317	N_ARM_PORT_HOUGHT
319	N_PORT_HOUGHTON
322	S_WINDHAM_BAY
324	SAND_BAY
327	MALLARD_COVE
329	SLOCUM_INLET
330	KIDNEY_COVE
339	MID_ARM_KELP_BAY

<sup>1</sup> Errata Coordinates are lat. 56.37750, long. 132.07722222

<sup>2</sup> Errata Coordinates are lat. 56.37750, long. 132.200277778

<sup>3</sup> Errata Change Name and Coordinates to: West Crittenden Creek lat. 56.48694444, long. 132.2700000

343	NAKWASINA
346	NAKWASINA_NE
372	FINGER_CREEK
379	SEAL_BAY
429	ELEPHANTS_NOSE
432	TOTAM_BAY
433	LITTLE_LAGOON
10	ORR_ISLAND_SW
165	MEARS
171	BAUTISTA
219	PORT_STEWART
222	SNAIL_POINT
224	N_SPACIOUS
236	MOSMAN_INLET
244	TOM'S_CREEK
250	VIRGINIA <sup>4</sup>
325	GILBERT_BAY
332	SILVER_BAY
376	INDIAN_RIVER
407	SAWMILL_CREEK
424	BURNERS_BAY
425	UPPER_LYNN_CANAL
426	WILLIAM_HENRY_BAY
1	LABOUCHERE_BAY
2	CALDER
3	EL_CAPITAN
8	COFFMAN_COVE
9	MARBLE_ISLAND_EAST
11	NAUKATI
13	PORT_ALICE
15	WINTER_HARBOR
17	THORNE_BAY
19	LITTLE_COAL_BAY
20	SUEMEZ
22	POLK_INLET
23	ANITA_BAY_2
26	FROSTY_BAY
27	HASSLER_ISLAND
29	SOUTH_WEST_NEETS
30	FIRE_COVE
31	SHRIMP_BAY

<sup>4</sup> Errata Change Name and Coordinates to: East Crittenden Creek lat. 56.477777778, long. 132.242777778

**Memorandum of Understanding Attachment F**  
**Listing of Log Transfer Sites**

32	MARGURITE_BAY
33	SHELTER_COVE
34	WHALE_PASS_WEST
47	KLU_BAY
104	LANCASTER_COVE
108	W_ARM_CHOLMONDELEY
114	SHELIKOF
190	NICHEN_COVE
200	CAPE_POLE
207	ELF_POINT
210	SHOAL_COVE
215	UPPER_CARROLL_INLET
233	DEER_ISLAND_W
239	ANITA_BAY_1
243	HOYA_CREEK
249	EARL_WEST_COVE (Venus Cove)
251	PAT'S_CREEK
252	KING_GEORGE
260	DEEP_BAY
263	RYNDA_ISLAND
264	BLIND_SLOUGH
265	WOODPECKER_COVE
266	ST_JOHN'S_HARBOR
267	TONKA_MOUNTAIN
273	DOUGLAS_BAY
277	NONAME_BAY
297	ROWAN_BAY
304	HAMILTON_BAY
311	PORTAGE_BAY
312	THOMAS_BAY
340	HANUS_BAY
344	LISA_CREEK
352	ST_JOHN BAPTIST_BAY
358	RODMAN_BAY
359	APPLETON_COVE
360	SAOOK_BAY
361	TODD
364	FALSE_ISLAND
375	CORNER_BAY
377	CRAB_BAY
380	INBETWEEN
381	FRESH_WATER_BAY
384	FALSE_BAY
393	EIGHT_FATHOM_BIGHT

394	SALT_LAKE_BAY
403	HOMESHORE
414	SAWMILL_COVE
418	EDNA_BAY
423	THREEMILE_ARM
427	CLOVER_BAY
301	SAGINAW_BAY

